

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Gorsha v. Hummingbird Home Care, LLC, et al.*, Case No. 1:19-CV-1905, United States District Court, Northern District of Ohio, Eastern Division

**TO: All former and current Home Health Aides of Hummingbird Home Care, LLC, or similar home care providers with different job titles, who worked more than 40 hours in one or more workweeks between August 30, 2016 and the present.**

**RE: Hummingbird Home Care, LLC – Fair Labor Standards Action Litigation**

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**PLEASE READ THIS NOTICE CAREFULLY**

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**I. INTRODUCTION**

The purpose of this Notice is to inform you of the existence of a collective action lawsuit of which you may be a member, and your option to elect to participate in the lawsuit.

You should be aware that this collective action lawsuit is only in the early stages. The right to recovery is not established and is not certain. Your decision to participate in this lawsuit does not guarantee that you will receive money. Hummingbird Home Care, LLC (“Hummingbird”) and Gia Cefaratti (the “Defendants”) maintain that their pay practices fairly and lawfully compensate their employees.

**II. DESCRIPTION OF THE LAWSUIT**

On August 21, 2019, this lawsuit was filed by Plaintiff Justina Gorsha (the “Plaintiff”) against Defendants alleging violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201–219, and the Ohio Minimum Fair Wage Standards Act, Ohio Rev. Code § 4111.03. The Plaintiff alleges that Defendants failed to pay their home health care workers for time spent traveling between client locations during the course of the workday. Furthermore, Plaintiff alleges that Defendants failed to pay overtime compensation when home health care workers worked over 40 hours in a workweek.

Defendants deny any liability and assert that they properly paid employees in a manner consistent with the requirements of the FLSA. The Court has not yet decided who will win the lawsuit.

### **III. NO RETALIATION PERMITTED**

If you join this lawsuit, federal law prohibits Defendants from retaliating against you as a result of your participation. However, participating in this lawsuit does not excuse you from complying with Defendants' existing policies and work rules.

### **IV. DEFINITION OF THE CLASS**

All former and current home health aides employed by Hummingbird, or similar home care providers with different job titles employed by Hummingbird, who worked more than 40 hours in one or more workweeks between August 30, 2016 and the present can participate in this lawsuit.

If you received a copy of this notice in an envelope specifically addressed to you, you may fit the above definition.

### **V. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT**

You may join this lawsuit only if you meet the class definition above. If so, you can join this action by mailing your completed and signed "Consent to Join Form" in the self-addressed stamped envelope provided or by otherwise sending the "Consent to Join Form" to Plaintiff's counsel at Nilges Draher LLC, 7266 Portage Street, N.W., Suite D, Massillon, Ohio 44646.

You can also email the "Consent to Join Form" in a PDF document to Plaintiffs' counsel at [cs@ohlaborlaw.com](mailto:cs@ohlaborlaw.com) or fax the "Consent to Join Form" to (330) 470-4428.

This form must be returned postmarked, faxed, or emailed by **[60 days from the date of mailing of the notice]**. If you fail to return the "Consent to Join Form" by the **[60 days from**

**the date of mailing of the notice]** deadline, you will not be able to participate in the lawsuit, and you will not be eligible to participate in any recovery that may be obtained by the lawsuit.

If you file a “Consent to Join Form,” your continued right to participate in the lawsuit may depend upon later decisions by the Court concerning the appropriateness of a collective action treatment and other matters.

## **VI. EFFECT OF JOINING THE LAWSUIT**

If you join the lawsuit, you may be required to provide information about your employment with Hummingbird, answer written questions, produce documents and/or testify at a pre-trial deposition or trial.

If you join the lawsuit and the Court finds in favor of Plaintiff, you may be entitled to a money recovery. However, if you join the lawsuit, and the court rules in favor Defendants, you will not be entitled to any relief.

Plaintiff’s attorneys are being paid on a contingency fee basis, which means that, if there is no recovery, there will be no attorneys’ fees.

By joining this lawsuit, you are designating the attorneys identified in Section VII to represent your interests. In addition, you agree that the Named Plaintiff, Justina Gorsha, may make decisions on your behalf regarding this lawsuit, including the manner and method of conducting the suit. The decisions and/or agreements entered into by the Named Plaintiff will be binding on you if you join this lawsuit. Further, you will be bound by the judgment of the Court on all issues in this case, including the reasonableness of any settlement.

**VII. YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you choose to join this lawsuit, your interests will be represented by Attorneys:

Shannon Draher  
Nilges Draher LLC  
7266 Portage Street, N.W., Suite D  
Massillon, Ohio 44646  
Phone: (330) 4707-4428  
Fax: (330) 754-1430  
Email: [sdraher@ohlaborlaw.com](mailto:sdraher@ohlaborlaw.com)

Christopher J. Lalak  
Nilges Draher LLC  
614 W. Superior Ave., Suite 1148  
Cleveland, OH 44113  
Phone: (216) 230-2955  
Fax: (330) 754-1430  
Email: [clalak@ohlaborlaw.com](mailto:clalak@ohlaborlaw.com)

**VIII. DEFENDANTS' LEGAL REPRESENTATION**

Defendants are represented by:

Barry Y. Freeman  
Buckingham, Doolittle & Burroughs, LLC  
1375 E. 9<sup>th</sup> St., 17<sup>th</sup> Floor  
Cleveland, OH 44114  
Phone: 216.736.4223  
Fax: 216.615.3023  
Email: [bfreeman@bdblaw.com](mailto:bfreeman@bdblaw.com)

Phillip A. Ciano  
Ciano & Goldwasser, LLP  
ETON Tower  
28601 Chagrin Blvd., Ste. 250  
Beachwood, OH 44122  
216.658.9900  
Email: [pac@c-g-law.com](mailto:pac@c-g-law.com)

**THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE SARA LIOI OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THIS LAWSUIT. PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

**CONSENT TO BECOME A PARTY PLAINTIFF**

In the matter of:        *Gorsha v. Hummingbird Home Care, LLC, et al.*, Case No. 1:19-CV-1905,  
United States District Court, Northern District of Ohio, Eastern Division

I, the undersigned, am a former or current home health aide employed by Hummingbird Home Care, LLC who worked more than 40 hours in one or more workweeks between August 30, 2016 and the present.

I acknowledge that I have read the Notice of Collective Action Lawsuit, and that I hereby consent to become a party-plaintiff in the above-captioned lawsuit.

By my signature below, I designate the above representative Plaintiff and her attorneys as my agents to make decisions on my behalf concerning the litigation, the manner and method of conducting this litigation, and decisions regarding settlement, attorneys' fees and costs and all other matters pertaining to this lawsuit.

**Please provide the following information:**

\_\_\_\_\_  
**Full Name (Print clearly)**

\_\_\_\_\_  
**Signature/Date**

\_\_\_\_\_  
**Street Address**

\_\_\_\_\_  
**City/State/Zip**

\_\_\_\_\_  
**Telephone Number**

**Return this form in the enclosed Pre-paid envelope to:**

Nilges Draher LLC

7266 Portage Street, N.W., Suite D

Massillon, OH 44646

**You may also fax it to: 330-754-1430**

**You may also email it to: [cs@ohlaborlaw.com](mailto:cs@ohlaborlaw.com)**

**Remember that the Consent Form must be returned within 60 days from the date of this notice, *i.e.* postmarked, faxed, or emailed no later than [\*\*\*Month Date\*\*\*], 2020.**